

REMARKS/ARGUMENTS

Claims 1, 2, 4, 5, 16, 17, 19-21 and 36 are pending in the present application. In the Office Action, claims 6-15, 35 and 37-39 were withdrawn from consideration and claims 1, 2, 4, 5, 16, 17, 19-21 and 36 were rejected. Claims 25, 27-34, 40 and 41 were allowed. Claims 1, 2, 4, 5, 16, 17, 19-21 and 36 have been cancelled. Claim 34 has been amended to correct a typographical error. No new matter has been added. Reexamination and reconsideration of the pending claims is respectfully requested.

Claim Rejections - 35 U.S.C. § 103

Claims 1, 2, 4, 5, 16-17, 19-21 and 36 were rejected under 35 U.S.C. § 103(a) as being unpatentable over WO 01/82778 to Focus Surgery, Inc. in view of U.S. Patent No. 6,236,875 to Bucholz et al. (hereinafter referred to as Bucholz). Without conceding the issue of patentability and in order to expedite prosecution, claims 1, 2, 4, 5, 16-17, 19-21 and 36 have been cancelled.

Double Patenting

Claims 1, 4-5, 16 and 19-20 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 3-5 of copending U.S. Patent Application No. 11/494,387. Claims 1, 4-5, 16 and 19-20 have been cancelled thereby obviating the provisional rejection.

Allowable Subject Matter

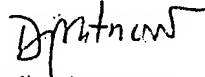
Claims 25, 27-34 and 40-41 were allowed in the Office Action.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



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